IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1874 OF 2004

Shivaji Yashwant Gawde ... Petitioner

versus

State of Maharashtra ... Respondent

...

Smt. Malti Raikar, for the Petitioner, amicus curiae.

Mr.V.B. Konde Deshmukh, A.P.P. for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

28th February 2005

P.C.:

. Heard Counsel for the parties. Rule. Rule made returnable forthwith by consent. Mr. Konde Deshmukh, A.P.P., waives notice for the Respondent. As short question is involved, petition is taken up for final disposal forthwith by consent.

2. This petition takes exception to the order passed by the Deputy Inspector-General of Prisons, Western Division, dated 19th May 2004 rejecting the Petitioner's application for furlough leave. The ground stated in the order is that there is danger to the life and property of the relatives of the deceased if the Petitioner is released. This is the only reason, which weighed with the competent authority. This reason can be taken care of by imposing strict conditions on the Petitioner, including prohibiting his entry in District Sangli, where the relatives of the deceased are residing. In other words, the order as passed will have to be set aside and the Petition allowed with direction to the competent authority to release the Petitioner on furlough leave as per rules by imposing appropriate conditions, including that the Petitioner shall not enter district Sangli during the leave period. Petition succeeds on the above terms.

3. As this petition is filed through jail, copy of this order be forwarded to the

Petitioner, who is presently in jail.

4. Court expresses word of appreciation for the assistance given by Smt. Malti Raikar, as amicus curiae.

(A.M.KHANWILKAR,J.)